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Claimants Brent Massae (deceased) and Katherine Massae (deceased)
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8 **UNITED STATES BANKRUPTCY COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
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11 In re
12 PG&E CORPORATION,
13 And
14 PACIFIC GAS AND ELECTRIC COMPANY,
15 Debtors.
16 X – Affects Both Debtors
17

CASE NO. 19-30088-DM

**MOTION PURSUANT TO FED. R.
BANKR. 9006(b)(1) TO DEEM BRENT
MASSAE'S CLAIM TIMELY FILED**

Date: June 29, 2022
Time: 10:00 a.m.
Place: Via Telephonically
450 Golden Gate Avenue
Courtroom 17
San Francisco, CA 94102
Judge: Hon. Dennis Montali

Objection Deadline: May 31, 2022

Pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure, Deborah Strait, authorized representative of Brent Massae (deceased) moves for an order expanding time to file a Proof of Claim, and allow, Claim Number 96138, that was executed on December 29, 2019 (marked received on January 2, 2020 (and submitted with this motion as “Exhibit A”, to be considered timely.

I. SUMMARY OF ARGUMENT

Under the flexible standard for excusable neglect, Brent Massae’s claim should be allowed. Brent Massae died April 4, 2019, before the order setting the deadline to file a proof of claim was issued. Katherine, Brent’s wife, who survived him, was not aware of any requirement that she file a claim in advance of her husband’s death in order to preserve his emotional distress claims. The circumstances surrounding this case constitute excusable neglect pursuant to the standards set forth in *Services v. Brunswick Associated Ltd. Partnership* 507 U.S. 380 (1993). Allowing this case to proceed does not present any prejudice to the Debtors, nor does it delay the attendant judicial proceedings. This motion is made in good faith and to deny this claim would result in injustice to the Claimant. This motion is based upon the points and authorities set forth herein and concurrently.

II. PROCEDURAL BACKGROUND

On January 29, 2019, the Debtors, PG&E Corporation and Pacific Gas and Electric Company (“Debtors”) filed a voluntary Chapter 11 Petition. See Dkt. 1. On July 2, 2019, the Court entered an order establishing October 21, 2019 (“the Bar Date”) as the deadline for Fire Victim claimants to file proofs of claim in this bankruptcy. See Dkt. 2806. That deadline was extended to December 31, 2019 (“the “Extended Bar date.”). See Dkt. 4872.

III. FACTUAL BACKGROUND

Brent and Katherine Massae suffered a total loss of their home and all their belongings contained therein as a result of the November 8, 2018 Camp Fire (the “Fire”). After the Fire, Brent (age 74) and his wife Katherine Massae (age 76) stayed in a borrowed camper. Petitioner, Deborah Strait, the couple’s daughter, helped her parents navigate the post-Fire landscape, including but not limited to interfacing with the insurance company and inspectors, helping them pick up what pieces were left (see attached Declaration of D. Strait). Brent had a pre-existing heart conditioned

1 which was worsened by the stressful times following the Fire. Katherine also suffered from PTSD,
2 high blood pressure and joint pain. In the months after the Fire, Katherine and Brent struggled to
3 get their bearings. Deborah noticed that her mother Katherine was very forgetful, often confused,
4 and overwhelmed and thought she was likely suffering from early effects of dementia, PTSD from
5 the fire, and old age.

6 The Massae's moved back to Paradise in late January of 2019. In that intervening time
7 Katherine was too traumatized to think about the Fire, let alone file a proof of claim. Brent died
8 soon thereafter on April 4, 2019. After that, Katherine became despondent and helpless, unable to
9 care for herself. Deborah was aware of the December 31, 2019 deadline and, after much convincing,
10 Katherine Massae filed a timely proof of claim (POC No. 92859; Exh. B) through Deborah's email
11 on December 31, 2019. Katherine and Deborah, however, struggled with the form of the POC and
12 could not figure out where to add Brent's name and therefore only identified Katherine in the proof
13 of claim. However, unbeknownst to Deborah, apparently Katherine, with what we assume was the
14 help of a neighbor, had filed a prior proof of claim (No. 96138, Exh. C) identifying both herself and
15 Brent as claimants, which was executed by Katherine on December 29, 2019, marked received by
16 the Sacramento post office on either December 30 or 31, 2019 and received by Prime Clerk on
17 January 2, 2020.

18 Brent passed away before any deadline to file a proof of claim was set by Court order.
19 Further, neither Deborah nor her mother Katherine were aware, at the time of Brent's death, that a
20 proof of claim must be filed prior to a claimant's death in order to preserve his or her claims nor did
21 they have the benefit of any counsel (who was not retained until June of 2020) to so advise them.

22 **IV. ARGUMENT**

23 The time in which to make claims in a Chapter 11 Bankruptcy may be extended by motion
24 based on excusable neglect. Federal Rules of Bankruptcy Procedure, Rule 9006(b)(1) provides:

25 (b) Enlargement.

26 (1) In general. Except as provided in paragraphs (2) and (3) of this subdivision,
27 when an act is required or allowed to be done at or within a specified period by

1 these rules or by a notice given thereunder or by order of court, the court for cause
2 shown may at any time in its discretion (1) with or without motion or notice order
3 the period enlarged if the request therefor is made before the expiration of the
4 period originally prescribed or as extended by a previous order or (2) on motion
5 made after the expiration of the specified period permit the act to be done where the
6 failure to act was the result of excusable neglect. Fed R. Bank. Proc. 9006(b)(1).
7 Emphasis supplied.

8 Determination of excusable neglect has been interpreted by the United States Supreme
9 Court as an equitable consideration.

10 “We conclude the determination at bottom an equitable one, taking account
11 of all relevant circumstances surrounding the party’s omission. These include . . .the
12 danger of prejudice to the debtor, the length of the delay and its potential
13 impact on judicial proceedings, the reason for the delay, including whether
14 it was within the reasonable control of the movant, and whether the movant
15 acted in good faith.”

16 *Pioneer Inv. Servs v. Brunswick Assoc. Ltd.P’ship*, 507 U.S. 380, 395 (1993).

17 Here, there is no danger of prejudice to the Debtors. Where the claim does not disrupt the
18 distribution process, no prejudice will result. In re Sacred Heart Hosp. 186 B.R. 891, 897. (“Exactly
19 how the debtor’s assets are distributed is ultimately of little consequence to the debtor, so long as
20 the claim is not filed so late as to disrupt the distribution process.”) Further, the delay is not
21 significant. The Trust has only completed determinations on approximately 40% of all claims.
22 Allowing the late claim will not delay the proceedings. The reason for the delay in filing a claim
23 was that the deadline was set after Brent’s death; therefore, the likelihood of injustice is great if this
24 claim is not permitted.

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DATED: May 9, 2022

By: /s/ Emily S. Levin
 EMILY S. LEVIN
 Attorneys for Brent Massae and Katherine
 Massae